



**DATE:** December 12, 2014

**TO:** Tobacco Licensed Establishments

**FROM:** Doug Junker, License Examiner

**RE:** Tobacco Ordinance Questions – Cigar Package Size & Price

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Staff has received a number of calls concerning the recent City Code amendments passed by the City Council on November 17, 2014, which went into effect on November 27, 2014. Most questions are related specifically to section 14.439, which describes the prohibited sales of certain package sizes and the minimum price of cigars:

**Excerpt: SEC. 14.439. PROHIBITED SALES.**

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(c) It shall be a violation of this chapter of any person to sell, offer to sell or distribute cigars in an original package containing fewer than five cigars. This restriction shall not apply to any sales, offer to sell, or distribution of an original package consisting of one, two, three, four, or five cigars, provided that each original package has a retail sales price of at least \$2.60 per cigar and after any price promotions or discounts are taken into account and before the imposition of sales tax, but excluding retail sales tax, and tobacco product shops only accessible to those 18 years or older.

City staff has discussed your questions and the following are some Frequently Asked Questions regarding this section and staff's response.

**1. Can I sell cigars in packages of less than five?**

You may sell packages of less than 6 ONLY if they meet the following minimum retail pricing requirement:

- A single cigar package must retail for \$2.60 or more.
- A double cigar package must retail for \$5.20 or more.
- A triple cigar package must retail for \$7.80 or more.
- A package of four cigars must retail for \$10.40 or more.
- A package of five cigars must retail for \$13.00 or more.

Cigar packages with special promotional offerings (i.e. promotional advertised price; buy one get one free or buy one get two free) are not excluded from this provision.

- If there is one cigar in the package, regardless of the promotional offering, it must retail for \$2.60 or more. The same holds true for packages of two, three, four, and five as outlined above.

You may not break open original packaging to create smaller packages.

**2. If a single cigar or pack of cigars of five or less had previously retailed at less than \$2.60 per cigar, can I still sell it in my store, as long as I follow the minimum retail pricing requirement? Or do I need to remove the item from my store?**

You can still sell the items that previously retailed for less than \$2.60 per cigar. You do not need to dispose of any existing inventory. You are required to mark up the price to meet the regulation's minimum pricing exemption as described in Question #1.

**3. What other products are included in this regulation?**

All cigars, tip cigars and cigarillos that are packaged in packages of less than 5 are included in this regulation that are not otherwise defined as a cigarette in Minnesota Statutes, Section 297F.01, Subdivision 3.

**4. Does this regulation address cigars that are in packages of six or more?**

No, this regulation does not address cigars in original packages of six or more. Cigars sold in package of six or more may be priced at manufactured suggested retail price. The regulation does pertain to original packaging; you may not add an individual cigar to an original package of five to circumvent the minimum pricing described in Question #1.

**5. Are tobacco shops exempt from this regulation?**

Yes, a license holder who operates an establishment that derives ninety percent (90%) of their revenue from tobacco-related sales ("Tobacco shop") is exempt from this regulation. These licensed establishments are prohibited from allowing persons under the age of eighteen (18) into the establishment.

If you have any questions, comments, or would like to discuss the amendments please contact Doug at 952-563-4923.